

CHAPTER 394
FORMERLY
HOUSE BILL NO. 392

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 101, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101. Definitions.

As used in this title:

(23) “Reports Appeals Subcommittee” or “Subcommittee” means the Reports Appeals Subcommittee of the State Board of Elections.

Section 2. Amend Chapter 2, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 209. Quorum.

A quorum of 6 members shall be required for the transaction of any business by the State Board of Elections. A meeting of the Subcommittee, which is comprised of 6 members of the Board, does not constitute a quorum of the Board under this section.

Section 3. Amend Chapter 2, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 220. Reports Appeals Subcommittee of the State Board of Elections.

(a) The Reports Appeals Subcommittee of the State Board of Elections is established to hear and determine appeals of decisions made by the State Election Commissioner under § 8044 of this title.

(b) The Subcommittee consists of 6 members of the State Board of Elections.

(1) The Board shall vote annually to select Subcommittee members.

(2) Subcommittee members serve at the pleasure of the Board.

(3) The Board Chair shall annually select 2 of the 6 Subcommittee members to serve as Subcommittee Chair and Co-Chair.

a. The Subcommittee Chair shall represent 1 of the 2 principal political parties and the Subcommittee Co-Chair shall represent the other of the 2 principal parties.

b. The principal political party represented by the Subcommittee Chair and Co-Chair shall rotate annually.

(4) Each of the 2 principal political parties shall have equal representation on the Subcommittee.

(5) If an absence or vacancy on the Subcommittee results in 1 principal political party having greater representation than the other at a meeting, a member of the other principal political party may not vote until there is no longer an absence or vacancy. The Board Chair shall select which Subcommittee member may not vote under this subsection.

(c) Each Subcommittee member shall receive a \$50 stipend for each Subcommittee meeting, but no member may receive more than \$250 in any calendar year.

(d) A majority of the members serving on the Subcommittee constitutes a quorum to conduct official Subcommittee business. If a member may not vote under paragraph (b)(5) of this section, a majority of the members who may vote constitutes a quorum.

(e) If a vote by the Subcommittee on a matter unrelated to an appeal, such as the approval of meeting minutes or the election of the new Chair, results in a tie, the Chair may vote a second time to break the tie. If a vote by the Subcommittee related to an appeal results in a tie, the determination shall go in the favor of the person who filed the appeal.

(g) The Subcommittee shall conduct appeals hearings as established in section § 8044 of this title.

(h) The Department shall provide administrative staff and resources to the Subcommittee.

Section 4. Amend § 8044, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) Any reporting party who fails to file or deliver to the Commissioner any report required under this chapter shall be assessed a fine by the Commissioner of \$50 for each day that such report is tardy in delivery to the Commissioner. In the event any report required under this chapter shall be incomplete, such report shall be deemed tardy for purposes of this section. Notwithstanding the foregoing, a reporting party shall be entitled to an automatic, 1-time 24-hour extension hereunder, provided such party notifies the Commissioner in writing thereof no later than 11:59 p.m. on the date such report is due.

(b) In the event that the Commissioner determines a report is incomplete or otherwise tardy, the Commissioner shall immediately notify the reporting party thereof in writing. Such notice shall state that a fine is being assessed for each late ~~day, and~~ day that the report is incomplete or otherwise tardy and, to the extent applicable, shall also specify why such report is incomplete or otherwise tardy.

(c) Upon receipt of ~~such notice~~ the notice required under paragraph (b) of this section, the reporting party shall have 30 days to appeal such fine in writing to the ~~Commissioner~~ Reports Appeals Subcommittee established under § 220 of this title.

(d) When an appeal is timely filed under section (c) of this section, the Subcommittee shall do all of the following:

(1) Meet and conduct an appeal hearing within 15 days of the filing of the appeal. The Subcommittee Chair shall schedule the meeting and give notice of the meeting to the members and the reporting party that filed the appeal.

(2) Take testimony.

(3) Keep records of all evidence taken at hearings under this section, including a recording of the hearing by electronic or any other means standard to recording judicial or quasi-judicial hearings.

(4) Make and put into writing factual findings and conclusions regarding the appeal.

(5) Notify the reporting party of the Subcommittee's factual findings and conclusions regarding the appeal, by mail to the reporting party's last known address or electronic means, within 10 business days of the hearing on the appeal.

(e) ~~In the event of an appeal, the~~ The reporting party shall have the opportunity and burden of proof to show the ~~Commissioner~~ Reports Appeals Subcommittee, by a preponderance of the evidence, that ~~such~~ the reporting party's tardiness in filing a report required under this chapter is due to reasonable cause and not wilful neglect.

(f) The payment of any fines due under this section is stayed pending a validly filed appeal. If the ~~Commissioner~~ Reports Appeals Subcommittee determines that such tardiness is not due to reasonable cause, or the reporting party fails to timely file an appeal, such fine shall constitute a debt due and owing the State, assessable by the Commissioner and recoverable against the reporting party.

(g) ~~If~~ The Reports Appeal Subcommittee shall notify the Office of the Attorney General that the reporting party has failed to file a report if a tardy report is not filed or corrected within 30 days of 1 of the following:

(1) A determination by the ~~Commissioner~~ Reports Appeals Subcommittee that such tardiness is not due to reasonable ~~cause; or~~ cause.

(2) The expiration of the appeal period set forth in subsection (c) of this ~~section,~~ section.

~~then the Commissioner shall notify the Office of the Attorney General that the reporting party has failed to file such report.~~

Section 5. This act shall take effect on February 15, 2017.

Approved August 10, 2016